



FISCAL MEMORANDUM

HB 1242 - SB 1398

April 19, 2023

SUMMARY OF BILL AS AMENDED (007951): Creates a Class A misdemeanor offense to knowingly possess Xylazine Creates a Class C felony offense to: (1) knowingly manufacture, deliver, or sell xylazine; or (2) knowingly possess xylazine with intent to manufacture, deliver, or sell xylazine.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures – \$33,800 Incarceration

Increase Local Expenditures – \$3,600/FY23-24 and Subsequent Years*

Assumptions for the bill as amended:

- Based on information located on the Drug Enforcement Agency's website, xylazine is most frequently encountered in combination with two or more substances present, and is commonly encountered in combination with fentanyl. There has been a significant increase in the number of reports from state and local forensic laboratories of xylazine from 2017 to 2021, as follows:
 - 2017: 442
 - 2018: 659
 - 2019: 1,681
 - 2020: 3,425
 - 2021: 8,938
- The number of individuals who will knowingly possess manufacture, deliver, or sell xylazine is unknown. However, certain drug offense data is utilized as a proxy for such estimation.
- Pursuant to Tenn. Code Ann. § 39-17-417(c)(2)(A), manufacturing, delivering, selling, or possessing a Schedule II controlled substance is a Class C felony with a maximum fine of \$100,000.
- Based on information provided by the Department of Correction (DOC), there have been 393.9 Class C felony admissions for offenses under § 39-17-417(c) each year over the last ten years.
- This analysis estimates that 15 percent, or 59.1 (393.9 x 15%), of admissions each year result from convictions for fentanyl.
- It is reasonably assumed the proposed legislation will result in a 10 percent increase, or 5.91 (59.1 x 10.0%) additional convictions for xylazine each year.

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- Of those 5.91 convictions, it is estimated that 70 percent or 4.14 (5.91 x 70%) will be a Class A misdemeanor of knowingly possessing xylazine, and 30 percent or 1.77 (5.91 x 30%) will be a Class C felony offense of knowingly manufacturing, delivering, or selling, or possessing with intent to manufacture, deliver or sell xylazine.
- It is assumed that an individual convicted of a Class A misdemeanor offense will spend an average of 15 days in a local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$58.21.
- The recurring mandatory increase in expenditures to local governments is estimated to be \$3,615 (4.14 convictions x \$58.21 x 15) in FY23-24 and subsequent years.
- After adjusting for pre-trial jail credits, the average time served for a Class C felony offense of manufacturing, delivering, selling, or possessing a Schedule II controlled substance is 1.01 years. It is assumed a person convicted of a Class C felony offense of manufacturing, delivering, selling, or possessing xylazine will serve the same average time.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.96 percent per year (from 2018 to 2021).
- The weighted average operational costs per inmate per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 33,000	FY23-24
\$ 33,500	FY24-25
\$ 33,800	FY25-26

- Pursuant to Public Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$33,800.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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